

**REMARKS**

Claims 1-42 were pending in the application. Claims 5, 20, 28, and 41 have been cancelled. Claims 1, 6, 14, 16, 21, 25, 29, 37, and 42 have been amended. Accordingly, claims 1-4, 6-19, 21-27, 29-40, and 42 remain pending subsequent entry of the present amendment.

In the present Office Action, claims 1, 3-7, 11, 14-16, 18, 20-29, 37 and 40-42 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2002/0104086 (hereinafter "Tomsen"). Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tomsen. Finally, claims 8-10, 12, 13, 17, 19, 24, 30-36, 38 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tomsen in view of U.S. Patent No. 6,026,376 (hereinafter "Kenney"). Applicant respectfully traverses at least some of the above rejections and requests reconsideration in view of the following discussion.

As amended, claim 1 includes features of prior claim 5 and recites a system for facilitating product purchases during television viewing in an interactive television system which includes

"a first source configured to convey television programming content;  
a second source configured to convey data corresponding to a product which is presented within the television programming content, and wherein the television programming content is not created for the purpose of selling the product;  
a mechanism configured to:

combine said television programming content and said data; and  
convey the combined television programming content and data as a broadcast stream; and

a third source configured to convey an interactive application, wherein said interactive application is executable to:  
detect the data within the broadcast stream;  
present an indication corresponding to the detected data during presentation of the television programming content;

receive user input corresponding to the indication; and  
store information related to the product in response to receiving the user input;  
wherein the user input is received and the information stored without interrupting  
presentation of the television programming content.”

In the present Office Action, it is suggested that Tomsen discloses all of the features of claim 1, including those of prior claim 5. However, Applicant disagrees. In the Office Action, the television advertising content conveyed by the local studio 106 of Tomsen is cited as being equivalent to the recited features “a first source configured to convey television programming content.” The Tomsen disclosure regarding initiation of a purchase transaction for an advertised product is then cited. With respect to prior claim 5, paragraph 60 of Tomsen is cited as disclosing the features “the television programming content is not created for the purpose of selling the product.” The cited disclosure of Tomsen states the following:

“As another example, transactions other than those related to commercials may be deferred in one embodiment of the invention. That is, a regular television program can make available enhanced content that is related to the television program (e.g., while watching a football game, the viewer is presented with an indicator to indicate that statistics about a particular player are available via the Internet). The viewer can access the enhanced content while the television program is being displayed, begin a transaction related to the enhanced content, and then defer the rest of the transaction at a later time, such as during the next commercial break.” (Tomsen, para. 60).

However, the above disclosure of Tomsen is an alternative to the previously described advertisement related embodiments. In the above disclosed alternative, it is merely stated that enhanced content such as statistics may be provided while watching a football game. In contrast, claim 1 recites a system for facilitating product purchases during television viewing including “a second source configured to convey data corresponding to a product which is presented within

the television programming content, and wherein the television programming content is not created for the purpose of selling the product." In the above disclosure of Tomsen, the statistics about a player are not data corresponding to a *product* as recited. Applicant submits the claim must be read as a whole and the relationships between the recited features and/or elements not ignored. Accordingly, Applicant submits Tomsen does not disclose all of the features of pending claim 1. As each of claims 16, 25, and 37 include features similar to that of claim 1, each of these claims are patentably distinguished from the cited art for similar reasons.

In addition to the above, Applicant submits each of the dependent claims recite additional features which are nowhere disclosed or suggested by the cited art. Some examples of such additional features include claim 4 that further recites "wherein the television programming content comprises a movie, sporting event, and/or advertisement." It is noted that claim 1 recites the television programming is not created for the purpose of selling the product. Accordingly, while claim 4 recites that the television programming may comprise an advertisement, the advertisement is not one which is created for the purpose of selling the product. Still further, claim 6 further recites the additional features "wherein the television programming content comprises a television program or movie, and wherein the product is presented during a scene of the television program or movie" which is wholly absent from the cited art.

As previously discussed in Applicant's prior response, with respect to the features of claims 4 and 6, the following comments may serve to further clarify. Typically, product or service information will be inserted into a broadcast stream to coincide with an advertisement for that product or service. However, in the presently claimed invention, product information may accompany any type of broadcast. For example, information related to a book which is being discussed on television may be added to the broadcast. Similarly, information related to music which is being played may be added to the broadcast. Further, information related to a product or service appearing in the scene of a movie or television show may be added to the broadcast. Consequently, scenarios such as the following are possible:

- (1) a movie is produced and in a scene of the movie, a character wears a particular type of clothing;
- (2) the movie completes its run and disappears from the movie theaters;
- (3) several years later, the movie is to be presented on television;
- (4) at this point in time several years later, the particular clothes the character is wearing in the scene are in vogue;
- (5) seeing an opportunity to sell these clothes, product information corresponding to the clothes is added to the television broadcast of the (now old) movie;
- (6) an indication may be presented during the presentation of the movie that product information related to the clothes is available;
- (7) a viewer may provide input which causes related product information to be stored for later review – without interrupting the presentation of the movie.

Applicant submits the cited art nowhere discloses or suggests all of the features of the claims. Accordingly, the application is believed in condition for allowance. However, should the examiner believe issues remain which would prevent the present application from proceeding to allowance, the undersigned representative requests a telephone interview at (512) 853-8866 in order to facilitate a resolution.

**CONCLUSION**

In light of the foregoing remarks, the Applicant submits that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited.

The Commissioner is authorized to charge any fees which may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505\5266-04000\RDR

Respectfully submitted,

  
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Date: January 20, 2006